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09/866,730	05/30/2001	David Allen Hays	99999.000309	7131

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EXAMINER

MILEF, ELDA G

ART UNIT PAPER NUMBER

3628

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/866,730	HAYS, DAVID ALLEN	
	Examiner	Art Unit	
	Elda Milef	3628	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3628

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-20 are objected to because of the following informalities: capitalization of words such as Clients and Provider are improper because they neither proper nouns nor trademarks. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7-8, 11-14, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable Levine (US Patent No. 6,233,566).

**Re claim 1:** Levine disclose:

a computer implemented method-see col. 5, 41-52;

subscribing with an online collections services system wherein a Client inputs profile data ("the subscribers each have a profile archived in system 200")-see col. 21, 41-57 and

Art Unit: 3628

wherein the client is in search of a provider for collecting receivables on behalf of the client where the receivables are amounts owed to the client as a result of extending credit to a third party ("loan wholesaling phase 112")-see col. 3, 29-49 and ("The investors service the loans, either themselves or through a separate servicing firm, and create a mortgage backed security based on the assets...")-see col. 4 lines 52-55, also see "servicing loans" col. 5, lines 6-12, col. 8 lines 41-44.;

providing information related to the receivables for collection through the online collections services system ("In an embodiment of the present invention, an organization provides a centralized exchange system for loans. Subscribers to the system (i.e., borrowers, brokers, correspondents, mortgage bankers, servicing companies, investors, capital markets brokers, etc.) may engage in trading that optimizes the types of loans being originated by lowering the risk associated with loan origination and maximizes return on each loan.")-see col.7, lines 47-54 and cols. 7-16. Levine disclose characterizing the receivables based on the combination to type of receivable, age of receivable and a likelihood of collecting the receivables("rules used for grouping certain loans together in a pool and rules used by the investor in deciding which loans it

Art Unit: 3628

would like to purchase in a pool")-see col. 4, lines 13-32,  
evaluating loans by criteria-see col. 9, lines 10-52,

where the receivables characterization is available to one or more providers to enable the one or more providers to quote competitive rates for collecting the receivables ("Any two parties can monitor each others' rules in order to originate or acquire loans or loan pool that will be easy to sell and will command a higher price")-see col. 9 lines 51-52.

enabling the Client to select one of a plurality of options wherein the plurality of options comprises (1) a bidding process where the Client specifies a plurality of bidding participants-see ("pre-registered buyers/sellers")-Abstract, col. 14 lines 42-44 to bid on the receivables and identifies a single Provider,-see Fig. 23, col. 3 lines 55-64, and it is obvious that one bidder will win therefore, one provider will be identified as the winner.

Levine further discloses: (2) an optimization process where the client specifies preference information and is presented with a single provider determined to be capable of providing an optimal return for the receivables -see col. 22 line 66- col. 23 line 6. Further, it is obvious that the bidding process alone will optimize the return on the sale of the loans by offering a competitive environment for buying and selling the

Art Unit: 3628

loans- see Fig. 15A, and ("Subscribers...may engage in trading that optimizes the types of loans being originated...maximizes return on each loan")-see col. 7, lines 47-54.

Levine disclose: (3) a manual process where the Client searches for a single-provider based search criteria-see col. 4 lines 33-44, further, it is obvious to manually perform tasks that are commonly done on a computer, for example, a company will typically have backup paper files of critical data in the event of a power outage or system failure;

selecting the single Provider identified by the selected option to collect the receivables-("Exchange system 200 then notifies the buyer or seller, depending on who made the last offer, of the accepted offer...")-see col. 23, lines 50-52.

**Re claim 2:** Levine disclose wherein the bidding process enables the client to submit a set of receivables for auction and specify limitations regarding the bidding process. ("The terms 'subscriber,' 'user', 'person,' 'buyer', and 'seller' are used interchangeably throughout herein to refer to those who would access and use the exchange system of the present invention")-see col. 9, lines 6-9. Further, the Abstract ("bidding"), and col. 8, lines 6-17, Fig. 15A teach that a subscriber specifies "trading rules". Also, see trading criteria cols. 10-14, further see col. 29, lines 22-53.

**Re claim 3:** Levine disclose wherein the optimization process involves displaying one or more Providers able to provide an optimal return to the Client for selection.-see Levine col. 12, lines 20-64 and Figs. 3, 15A, 20.

**Re claim 4:** Levine disclose wherein the manual process comprises a step of searching for one or more Providers based on Client defined characteristics wherein the Client initiates contact with the one or more Providers.-see col. 21, line 58-col. 22, line 18. Further, it is obvious to manually perform tasks that are commonly done on a computer, for example, a company will typically have backup paper files of critical data in the event of a power outage or system failure

**Re claim 7:** Levine disclose a computer implemented method for providing online collections services marketplace-see Fig. 2B, to enable Providers to offer collection services to one or more clients comprising subscribing with an online collections services system wherein a provider inputs provider data wherein the provider data is used to identify for a client the provider's ability to successfully collect receivables... -see col. 8 lines 6-21, col. 9 lines 5-52, col. 10 lines 39-43, col. 22 lines 11-18;

viewing one or more receivable ratings associated with one or more clients, wherein the receivable ratings indicate a

Art Unit: 3628

characterization of the receivables based on a combination of type of receivable, age of receivable and a likelihood of collecting the receivables where the receivables characterization is available to one or more Providers -see ("Loan Valuation Criteria")-col. 9, lines 10-52;

to enable the one or more Providers to quote competitive rates for collecting the receivables-see col. 9, lines 50-52;

Further, the remaining limitations in claim 7 are similar to those found in claim 1 and are therefore rejecting using the same art and rationale.

**Re claim 8:** Levine disclose comprising a step of participating in a bidding process where the Provider submits one or more bids for one or more sets of receivables for auction. ("In an embodiment of the present invention, an organization provides a centralized exchange system for loans. Subscribers to the system (i.e., borrowers, brokers, correspondents, mortgage bankers, servicing companies, investors, capital markets brokers, etc.) may engage in trading that optimizes the types of loans being originated by lowering the risk associated with loan origination and maximizes return on each loan.")-see col. 7, lines 47-54 col. 8, lines 41-44 also Abstract and ("bidding").



**Re claims 11-14, 17, 18:** Further a system would have been necessary to perform the method of previously rejected claims 1-4, 7-8 above, and are therefore rejected using the same art and rationale.

3. Claims 5, 6 and 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine in view of Pfeifer (Pfeifer, Michael R. *Sharing Secrets*. Mortgage Banking. Washington: Dec 1995. Vol. 56, Iss. 3; pg. 67, 8 pgs.)

**Re claim 5:** Levine disclose comprising a step of utilizing Provider data in selecting one or more Providers wherein Provider data comprises one or more of Provider type, Provider qualification data, feedback data -see col. 22, lines 12-15.

Levine do not explicitly disclose efficiency rating data. Pfeifer however, teaches ("Most major rating agencies maintain surveillance over the securities they rate...In the commercial arena, many agencies are even rating servicers themselves as a key element in rating a nay CMBS issue...")-see p. 3, para.7 and p. 9, para.3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Levine to include rating the servicers in order to provide the lenders with a benchmark to determine if the servicer is capable

Art Unit: 3628

of managing a portfolio of loans that will generate income for the lender.

**Re claim 6:** Levine do not disclose a step of dynamically rating one or more selected providers with respect to provider performance in servicing receivables with one or more defined characteristics, Pfeifer however, teaches ("Most major rating agencies maintain surveillance over the securities they rate...In the commercial arena, many agencies are even rating servicers themselves as a key element in rating a nay CMBS issue...")-see p. 3, para.7 and p. 9, para.3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Levine to include rating the servicers in order to provide the lenders with a benchmark to determine if the servicer is capable of managing a portfolio of loans that will generate income for the lender.

**Re claims 15 & 16:** Further a system would have been necessary to perform the method of previously rejected claims 5 and 6 above, and are therefore rejected using the same art and rationale.

4. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine as applied to claims 7 and 17 above and further in view of Lupien (US Patent No. 6,012,046).

**Re claim 9:** Levine do not disclose further comprising a step of viewing current bids of other participating bidders without revealing the identity of the other participating bidders. It is well known in the art that anonymous bidding is commonplace as evidenced by Lupien ("anonymously matches buy and sell orders.")-see col. 4, lines 27-29. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Levine to include anonymous trading as is well known in the art in order to avoid other participants influencing the price of the item or service for sale.

**Re claim 19:** Further a system would have been necessary to perform the method of previously rejected claim 9 and is therefore rejected using the same art and rationale.

5. Claims 10, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable Levine (US Patent No. 6,233,566) as applied to claims 7 and 17 above in view of Ojha (US. Patent No. 6,598,026).

**Re claim 10:** Levine do not disclose dynamically rating one or more clients. Ojha however, shows ("According to a specific

Art Unit: 3628

embodiment, the metric is simply the number of offers honored less the number reneged. A large positive value representing a 'good' reputation...")-see col. 3, lines 21-47. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Levine to include rating a buyer in order for the seller to be able to avoid dealing with a buyer who may not fulfill his/her obligations to the contract.

**Re claim 20:** Further a system would have been necessary to perform the method of previously rejected claim 10 and is therefore rejected using the same art and rationale.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tannehill, Steven. *A Pivotal Year for Servicing*. Mortgage Banking. Washington: Oct. 1992. Vol. 53, Iss. 1; pg. 91, 4 pgs.- cited for its reference to servicing fees, servicers bidding aggressively to win selected portfolios, the servicers basing bidding on prior relationships with sellers, bidding on

Art Unit: 3628

characteristics of loans such as product type or non-conventional characteristics such as high delinquency loans.

Brace, Kathleen J. *Sell Servicing at a Profit*. Mortgage Banking. Washington: Feb 1988. Vol. 48, Iss. 5; p. 59 (4 pages)- cited for its reference to service fees, primary variables that determine value, sellers having a database of potential buyers, seller soliciting bids.

Beidl, Richard A. *The Virtual Mortgage Bank: How Technology is Toppling Traditional Barriers*. 1999 TowerGroup, June 1999, 15 pages.- cited for its reference to a mortgage loan bidding environment.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

Art Unit: 3628

expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Thursday 8:30 am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3628

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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